

1 NATHANIEL S.G. BRAUN
2 Pro Hac Vice
3 ERIC S. POWERS
4 Nevada Bar No. 12850
5 SELMAN BREITMAN LLP
6 3993 Howard Hughes Parkway, Suite 200
7 Las Vegas, NV 89169-0961
8 Telephone: 702.228.7717
9 Facsimile: 702.228.8824
10 Email: epowers@selmanlaw.com

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12 Attorneys for Plaintiff National Casualty
13 Company, a Wisconsin corporation

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16 **UNITED STATES DISTRICT COURT**
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18 **DISTRICT OF NEVADA**

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20 NATIONAL CASUALTY COMPANY, a
21 Wisconsin corporation,

22 Plaintiff,

23 v.

24 EFREN ISAAC SOTELO, an individual; and
25 PHILIP MICHAEL BOUCHARD, an
individual,

Defendants.

Case No. 2:17-cv-02456-KJD-CWH

STIPULATION AND ORDER TO EXTEND
JOINT PRE-TRIAL ORDER
(FIRST REQUEST)

26 Plaintiff National Casualty Company (hereinafter "NCC"), by and through its counsel,
27 Eric S. Powers of Selman Breitman LLP, and defendant Philip Michael Bouchard (hereinafter
28 "Bouchard"), by and through his counsel, Jordan P. Schnitzer of The Schnitzer Law Firm, hereby
submit the following stipulation to extend the joint pre-trial order deadline in the above – entitled
action by thirty (30) days. This is the first request for enlargement of the joint pre-trial order
deadline.

I.

INTRODUCTION

This is an insurance declaratory relief action. This action arises from a car accident between

1 Defendant Efren Sotelo ("Sotelo") and Bouchard. Sotelo is a former employee of his father's business,
2 Cool Air. Sotelo was terminated from employment and required to return the Cool Air keys, gas card,
3 uniform and other company property in his possession. Effective that date, Sotelo was no longer
4 authorized to operate any Cool Air vehicles. Unbeknownst to Sotelo's father or Cool Air, Sotelo had
5 made unauthorized copies of some Cool Air keys, including a key to Cool Air's 2005 Chevrolet 1500
6 pickup truck (the "Chevy").

7 On December 12, 2014, NCC contends Sotelo stole the Chevy using his copied key. His
8 father filed a police report and asked the Las Vegas Metropolitan Police Department to prosecute
9 Sotelo for the theft. On December 17, 2014, a criminal case was opened; and on February 15, 2015,
10 Sotelo pled guilty to the charge of theft and was sentenced. Sotelo has admitted the above facts and
11 confirms that he did not have permission to use the Chevy on December 12, 2014. See Exhibit A
12 attached to NCC's Complaint on file herein.

13 Sotelo allegedly caused an accident by rear ending a vehicle driven by Philip Bouchard. On
14 July 27, 2016, Bouchard filed a complaint for negligence against Efren, Juan, and Cool Air. That
15 action is pending, and is styled Bouchard v. Efren Isaac Sotelo, et al., in the Eighth Judicial District
16 Court, Clark County District Court Case No. A-16-740711-C (the "Underlying Action"). NCC is
17 informed and believes, and based thereon alleges, that Bouchard seeks damages in excess of \$75,000
18 in that action.

19 NCC is defending its insureds, Juan Sotelo (Sotelo's father) and Cool Air, in that action.

20 **II.**

21 **DISCOVERY COMPLETED BY THE PARTIES**

22 The parties have completed the following discovery to date:

23 The Parties held a telephonic 26(f) Conference on or around December 1, 2017.

24

- 25 • Plaintiff served their initial FRCP 26 disclosures on June 13, 2018;
- 26 • Defendants served their initial FRCP 26 disclosures on June 13, 2018;
- 27 • Defendants served their First Set of Requests for Production of Documents on
January 14, 2018;

1 • Plaintiff served its Responses to Defendants First Set of Requests for Production of
2 Documents on February 21, 2018;
3 • Defendants served their Second Set of Requests for Production of Documents on
4 February 2, 2018;
5 • Plaintiff served its Responses to Defendants First Set of Requests for Production of
6 Documents on April 6, 2018;
7 • The Parties filed their Interim Status Report on April 16, 2018.

8 II.

9 DISCOVERY WHICH REMAINS TO BE COMPLETED

10 None. The parties have completed discovery in this matter. Defendants filed on Motion to
11 Compel on June 12, 2018 [Doc. 36]. After hearing on the Motion to Compel, the Magistrate Court
12 entered an Order Denying the same and issuing sanctions against Defendants [Doc. 46]. Defendants
13 filed an Objection/Appeal of the Magistrate Judge Order on July 30, 2018 [Doc 47]. Further discovery
14 could be warranted depending on the outcome of Defendants' objection.

15 Plaintiff filed its Motion for Summary Judgment on July 12, 2018 Doc. 44] that will soon be
16 fully briefed and pending this Court's decision. The parties seek a thirty (30) day extension to further
17 attempt to resolve these pending issues related to discovery and complete briefing on Plaintiff's Motion
18 for Summary Judgment.

19 III.

20 REASONS WHY SUCH REMAINING DISCOVERY
21 CANNOT BE COMPLETED WITHIN THE
22 TIME LIMIT OF THE EXISTING DEADLINE

23 The parties seek only to extend the Pre-Trial Order deadline in this case. Specifically,
24 Defendants filed a Motion to Compel which was denied by this Court. The Motion to Compel has
25 been appealed to the district court. The parties seek to attempt to resolve the pending Appeal of
26 the Motion to Compel or finalize briefing upon the same prior to filing pre-trial order in this
27 matter. Moreover, the parties would like to complete briefing on Plaintiff's Motion for Summary
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1 Judgment that was timely filed before this Court prior to submitting the same.

2 Accordingly, the parties seek a thirty (30) day extension of time to file the Joint Pre-Trial
3 Order in this case. Good cause and excusable neglect exist for extending the time to file the Joint
4 Pre-Trial Order because the parties could not have anticipated completing briefing on Defendants
5 Objection/Appeal of the Court's decision on its Motion to Compel. A thirty (30) day extension
6 will not cause undue delay or prejudice to either party. This is the parties' first request for an
7 extension and this request is being submitted in good faith.

8 **IV.**

9 **PROPOSED SCHEDULE FOR PRE-TRIAL ORDER DEADLINE**

10 Based on the foregoing, the parties hereby stipulate and agree that the following Pre-Trial
11 Order deadline be substituted for the corresponding deadline contained in the Joint Discovery Plan and
12 Scheduling Order:

- 13 1. Discovery Cut-Off Date, No Change.
- 14 2. Expert Disclosures Pursuant to Federal Rule of Civil Procedure 26(a)(2); No Change.
- 15 3. Dispositive Motions: No Change.
- 16 4. Pre-Trial Order: The current pre-trial order deadline August 13, 2018, shall be
17 extended thirty (30) days to Wednesday September 12, 2018.

18 WHEREFORE, the Parties hereby stipulate and agree to modify the Scheduling Order in
19 order to extend the Pre-Trial Order deadline as stated above.
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1 This report is signed in accordance with Rule 11 of the Federal Rules of Civil Procedure.

2 DATED: August 13, 2018

SELMAN BREITMAN LLP

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By: /s/ Eric S. Powers
ERIC S. POWERS
NEVADA BAR NO. 12850
3993 Howard Hughes Parkway, Suite 200
Las Vegas, NV 89169-0961
Phone: 702.430.5902
Facsimile: 702.228.8824
Attorneys for Plaintiff National Casualty
Company, a Wisconsin corporation

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DATED: August 12, 2018

THE SCHNITZER LAW FIRM

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By: /s/ Jordan P. Schnitzer
JORDAN P. SCHNITZER
NEVADA BAR NO. 10744
9205 W. Russell Road, Suite 240 Las Vegas, NV
89148
Phone: 702. 960.4050
Facsimile: 702. 960.4092
Attorneys for Defendant PHILIP MICHAEL
BOUCHARD

IT IS SO ORDERED.

DATED: August 16, 2018



HON. CARL W. HOFFMAN
MAGISTRATE JUDGE OF THE UNITED STATES
COURT FOR THE DISTRICT OF NEVADA